THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.24268 of 2005

Dated: 28.03.2006

Between:

B. Nagaiah, S/o Ramaiah, Conductor E. 251286, R/o Narayanpet (Tq), Medak District.

.... PETITIONER

AND

The Regional Manager, APSRTC, Medak Region, Medak District

and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No. 24268 of 2005

Order:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation.

The petitioner is working as a Conductor in respondent-APSRTC. His wife underwent family planning operation on 13.09.1993 at P.P. Unit and U.F.W.C. District Hospital, Sanga Reddy, Medak District. Immediately, thereafter, the petitioner submitted an application, supported by the certificate issued by the

Medical Officer, who conducted family planning operation on his wife, to the respondent-Corporation for grant of family planning increments. But, no action has been taken by the respondent-Corporation till date though the petitioner sent reminders. Assailing the action of the respondent-Corporation in not granting family planning increments, the petitioner filed the present writ petition.

When the matter is taken up for hearing, learned Standing Counsel for the respondent-Corporation has produced the personal file of the petitioner before this Court. A perusal of the said file shows that the petitioner submitted application to the respondent-Corporation seeking grant of family planning increment on 04.10.1993, and there is an endorsement on the application to the effect that the application is submitted ten days after the operation, and as such, the petitioner is not entitled to family planning increments.

The respondent-Corporation initially issued Circular No.PD-43/1985, dated 13.05.1985, extending the benefit of incentive increments under the Family Planning Programme to employees posted to work outside the State and undergone Sterilization Operation in Government Hospitals Outside the State, and in modification thereof, the respondent-Corporation issued another Circular dated 23.07.1988, stating that irrespective of place of working, the benefit of incentive increments to the employees, who themselves or whose spouses undergo family planning operation at places outside the State, shall be allowed, subject to the condition that if the operation is performed by Private Medical Practitioners, the Sterilization certificate should be got counter-signed by a Government Doctor not below the rank of a Civil Assistant Surgeon of the State in which Family Planning Operation was done, within five days of the operation, and in case the Family Planning Operation is performed in Government Hospital outside the State irrespective of place of working, the instructions issued in the first (initial) circular shall be followed.

What all the above Circular states is that in the case of employees, who are posted outside the State, undergo family planning operation by themselves or through their spouses in a private hospital outside the State, then to be eligible for grant of family planning increment, the certificate issued by the private hospital has got to be counter-signed by a Government Doctor not below the rank of Assistant Civil Surgeon, within a period of five days from the date of family planning operation. In the instant case, the petitioner is not posted to work outside the State, he is

working in Medak Bus Depot in Andhra Pradesh, and while working at that place, his wife had undergone family planning operation on 13.09.1993 at P.P. Unit & U.F.W.C. District Hospital, Sangareddy, Medak District. It is not the case of the respondents that the petitioner is posted to work outside the State and that his wife having undergone family planning operation in a private hospital, the certificate of operation, was not counter-signed by a Government Doctor, within five days from the date of operation. The factum of the petitioner's wife having undergone family planning operation is not in dispute. The only contention of the respondents is that the application for grant of family planning operation increment was not made within time, in that it was made ten days after the operation. This contention of the respondents cannot be accepted for the reason that there is no time limit prescribed in the Circulars for making application for grant of family planning increment. The Standing Counsel for the respondent-Corporation also failed to point out any clause in the Circulars or place before this Court any other Circulars, which prescribed time limit for making application for grant of family planning operation increments. In the absence of any clause in the Circular or any new Circulars, which mandated making of application for grant of family planning increment within a particular period of time from the date of family planning operation, I am of the considered opinion that the respondent-Corporation, have committed gross error in denying the benefit of family planning increment to the petitioner on the ground that the application for grant of family planning increment was made ten days after the operation.

In the result, the writ petition is allowed. There being no dispute that the petitioner's wife has undergone family planning operation, the respondents-Corporation shall in the light of the Circulars governing grant of family planning increment, which existed as on the date of undergoing family operation by the petitioner's wife, shall grant family planning increment to the petitioner. No costs.

N.V. RAMANA, J.

Date: 28.03.2006

Nsr/Ksr